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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/450,055	11/29/1999	GRAHAM BUTLER	P/61801	7079

7590

12/26/2001

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EXAMINER

JACKSON, CORNELIUS H

ART UNIT

PAPER NUMBER

2881

DATE MAILED: 12/26/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/450,055

Applicant(s)

BUTLER, et al.

Examiner

Cornelius H. Jackson

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-7, 9-10, 12-19, 21-22 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Kuo et al. (6222861). Kuo et al. disclose a method of controlling a laser comprising establishing a predetermined laser temperature, **see col. 4, lines 13-17**; controlling the laser current to give a wavelength of operation substantially equal to a desired wavelength, **see col. 4, lines 17-20**; and establishing a predetermined laser output power, **see col. 4, lines 20-26**.

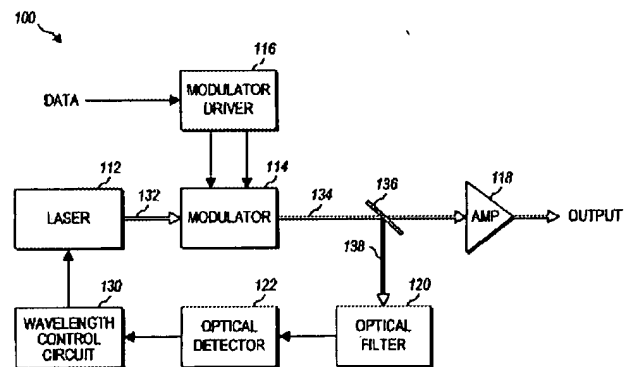


FIG. 1

Regarding claim 2, Kuo et al. disclose that the predetermined laser output power is carried out by means of an attenuator situated at the laser output, **see col. 4, lines 20-26**.

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Regarding claims 3-4, Kuo et al. disclose the stated limitations, **see col. 8, lines 22-36 and see col. 4, lines 32-43.**

Regarding claims 5-7, Kuo et al. disclose the stated limitations, **see col. 4, lines 32-43.**

Regarding claims 9-10, Kuo et al. disclose the stated limitations, **see col. 4, lines 27-31, col. 7, lines 13-16 and col. 9, lines 2-8.**

Regarding claim 12, Kuo et al. disclose the stated limitations, **see col. 4, line 44-col. 5, line 22.**

Regarding claims 13-15, Kuo et al. disclose the stated limitations, **see col. 7, lines 33-36 and col. 9, lines 2-8.**

Regarding claim 16, Kuo et al. disclose the stated limitations, **see col. 7, lines 18-21.**

Regarding claim 17, see claim 3 above.

Regarding claim 18, see claims 3 and 13 above.

Regarding claim 19, see claims 6 and 13 above.

Regarding claims 21-22 and 31, Kuo et al. Kuo et al. disclose the stated limitations, **see col. 1, line 42- col. 2, lines 2-6, and col. 3, line 52.** (Also, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 11, 20 and 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuo et al. (6222861). Kuo et al., as applied to claims 1-7, 9-10 and 13-16 above, teach all the stated limitations except wherein the attenuation is changed in ramp fashion. It would have been an obvious matter of design choice to change the attenuation, since applicant has not disclosed that changing the attenuation in ramp fashion solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well by gradually changing.

Regarding claims 11, "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

Regarding claim 20, it would have been obvious to one of ordinary skill in the art at the time the invention was made to design the laser system were upon power-down the system resets to its initial settings, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 23-30, see claim 11 and other corresponding claims above.

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Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zhu (6327064) teaches a method of controlling a laser.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cornelius H. Jackson whose telephone number is (703)306-5981. The examiner can normally be reached on 8:30 - 4:00, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa M. Arroyo can be reached on (703)308-4782. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7722 for regular communications and (703)308-7721 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

chj
December 16, 2001


Paul Dzierzynski
Supervisory Patent Examiner
Technology Center 2800